

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:07CR226
)	
Plaintiff(s),)	
)	
vs.)	JUDGE CHRISTOPHER A. BOYKO
)	
RACHIEL MCINTOSH,)	
MILLION WHEELER,)	
)	ORDER
Defendant(s).)	

A jury of fourteen (including two alternates) was impaneled for trial in the above matter beginning December 4, 2007.

Counsel for both Defendants moved the Court for a Rule 29 Motion for Judgment of Acquittal at the close of the Government's case.

The Court heard arguments from counsel and took the Motions under advisement.

As the Court more fully explained on the record in granting both Defendant's Rule 29 Motions for Judgment of Acquittal, each count against the Defendants requires that they knowingly and intentionally possess with intent to distribute cocaine. Count 1


charges Conspiracy and Count 2, Attempt.

The Court found the Government failed to offer any evidence, let alone sufficient evidence, that either or both Defendants knew that the unopened package possessed by each contained cocaine. Considering all the evidence in a light most favorable to the Government and affording it all reasonable inferences, the Court finds no reasonable jury would disagree on the element of knowledge and this insufficiency prevents the Court from submitting the case to the jury for consideration.

The Court's decision is entered pursuant to United States v. Jenkins, 345 F. 3d 928 (6th Cir. 2003) and the cases cited within.

The Court assesses costs for the jury to the Government in the amount of \$4,816.88.

IT IS SO ORDERED.


Christopher A. Boyko
U.S. District Judge

December 7, 2007